

Mr. Chairman, Members of the Senate Education Committee,

SENATE EDUCATION

EXHIBIT NO. 6

DATE 3/20/13

BILL NO. SR 33

I thank you for the opportunity to appear before you and provide testimony.

My name is Patrick Duffy. I am here as a private citizen, and speaking only for myself.

In appearing before this committee to oppose the confirmation of Pat Williams as a Member of the Board of Regents, I find myself in a difficult position. I have a 35 year personal and professional relationship with Pat. I served on his Congressional staff. I managed his first re-election campaign. He is my daughter Keough's Godfather. He has been a friend and someone whose accomplishments I've admired over the years. Before I discuss the reasons for my opposition to his confirmation, I want to address those of Pat's detractors who have stated that he is not qualified to hold the job of Regent. That is nonsense – his background in education, and education policy, make him very qualified. His qualifications are not at issue here, nor should they be. Rather, his recent conduct is, and how that conduct sheds light on the only relevant issue before this Committee – his fitness to be a Regent, particularly at this time.

Words are powerful – and when they are spoken deliberately, and later defended by the speaker as “purposely” chosen, they offer a window into the speaker's decidedly held beliefs. “Thug” is a narrow-minded word, an ugly pejorative. And when it is applied wholesale to a particular group of students based upon one common attribute they share – an attribute, incidentally, of which they are proud, that of being an NCAA Division I student athlete – it reveals within the speaker a calloused point of view. An outlook that is not thoughtful but hurtful. An approach that promotes discord and polarization at the very time the University system needs an honest, constructive – and above all, respectful – dialogue about

the very real problem of sexual assault in the communities in which our campuses are located.

No one can seriously doubt the proposition that Pat's viewpoint polarized this dialogue – a “false divide” emerged that suggested you either supported the Grizzly football team and the accomplishments of its student athletes or stood firmly with those who want to take strong and effective action to eliminate violence against women. The creation of that divide is unfortunate – particularly because it is a false divide. The two points of view I just mentioned are by no means exclusive – both can be honestly and reasonably held.

If I may use myself as an example -- during several of the last years of my late wife's professional career, she worked in the Crime Victim Advocate's office of Missoula County, assisting victims of domestic abuse, many of them also victims of partner sexual assault. I received a first-hand education of the breadth of the problem – one that we do not talk enough about, let alone take effective action against. I have three adult daughters - two of whom live in areas far more dangerous than Montana communities. One resides in Mexico and the other in an inner-city metropolitan area. And then there's Keough, Pat's Goddaughter – a developmentally disabled adult who lives independently and alone, and who travels the streets of Missoula on foot or by bus. A young woman whose abiding trust in the goodness of strangers makes her frighteningly vulnerable to violent sexual attack. I stand firmly with those who believe the protection of women from sexual assault is a pressing and important concern.

I am also a supporter of intercollegiate athletics, particularly the Grizzly football team. For seven years, I taught in the Economics Department at the University of Montana and had many Grizzly athletes as students. I also was a member and Chair of the University's Committee on Intercollegiate Athletics and even had occasion to travel with the team. I saw first-hand the sacrifice and dedication of these young men as they sought excellence in both facets of their student-athlete personas. I have



no doubt the student athletes currently pursuing excellence under Coach Delaney's direction are just as committed as those I personally observed.

I'm also an attorney and a fervent believer in the jury system, and in the absolute right of an accused to a fair and impartial trial by a jury of his peers and his right to be presumed innocent until proven guilty. Pat's comments to the NY Times were contained in an article about a trial that was set to begin in Missoula within days of the article's appearance. I read those comments the day I met the parents of the accused, who had traveled from Oregon to be in Missoula to support their son over the next three weeks of his trial. They also read Pat's comments. I spent a fair amount of time with them over those three weeks. To understand what they went through, I only ask that you imagine what it would be like for you and your spouse if your son was on trial in another state for a felony that carries a maximum penalty of 100 years of incarceration. And to read that a prominent leader in that state believes a group to which your son belongs is a group of "thugs." To be fair, even though he unfortunately defended his comments in a follow up local news report, Pat did add he did not mean to refer to the accused as a "thug." I don't think that was of much comfort to the family, since the "thug" comment was squarely contained within the four corners of an article written about their son's trial on the eve of jury selection.

The proof at trial was that Jordan Johnson is no "thug." Five character witnesses described him as honest, humble, hard-working and a born leader committed to excellence. And even though the prosecution could have, as a matter of law, put on evidence to rebut that testimony, to refute that evidence of good character, they did not. His character as described by those witnesses is uncontested fact.

The 12 member jury -- plus 5 alternates -- ultimately chosen for that trial was comprised of citizens who could assure the Court that they could set aside any views of partiality and fairly try the case. They were chosen from nearly 300 prospective jurors, many of whom were excused because

they held views which compromised their objectivity. For some, they were too close to the Grizzly football program in some way or another, or stated honestly that they believed the accusation to be false and that they would find it very hard to convict based upon what they had read or heard. For others, they, or a relative of theirs, had been victims of sexual assault – and stated honestly that the painful memories of their ordeal would make it difficult for them to disbelieve the complaining witness.

As we all know, after listening to three weeks of testimony, the trial jury unanimously voted to acquit after 2 hours of deliberation. In his follow up story, the same NY Times journalist found it necessary to report that the acquittal occurred seven weeks after a different football player pled guilty to sexual intercourse without consent. Wouldn't it have been just as relevant to state that the acquittal came only four weeks after 2 other Grizzlies, Jordan Tripp and Danny Kistler, were chosen as pre-season All Americans, or that both were selected to the Big Sky All-Academic team, each having a GPA in excess of 3.4? No, he reported it the way he did because the atmosphere has become caustic in discussing the divisive events of the past year surrounding sexual assault, Grizzly football, and the responses by University and local officials. And the sad truth is that journalism is enamored of a caustic situation. The news coverage itself further perpetuates it, placing an additional barrier to reasoned and respectful dialogue aimed at easing it. It all becomes a negatively charged feedback mechanism, and one that needs to be ended now. The leadership must come from the Regents to do that – it is the Regents who need to chart a course that improves campus safety while reaffirming the dignity and respect all of our students deserve.

In conclusion let me say that I have no doubt the jurors who were excused from serving on Jordan Johnson's case are all good people. They would likely make perfectly acceptable jurors on some other case, but their publicly professed views rightfully prevented them from sitting on his case. So too – I know Pat Williams to be a good man. I have no doubt there are other areas in which he can continue to provide public service, but not as a Regent.



Because he has never said he was misquoted. He did not misspeak. He has even written in a recent op-ed piece that he fully intended to be "purposely blunt" in choosing the words he did. He has steadfastly defended remarks which by their very nature expose a view that is not fair or objective; a view that is insulting; and most importantly, a view that cannot be helpful in moving forward in any meaningful way.

He is certainly entitled to hold that view, but in doing so, he has forfeited the right to sit on the Board of Regents, the very body that needs to show the leadership out of the current crisis of confidence in the management of higher education in Montana. His stated view, and one he continues to reiterate, is inconsistent and incompatible with the Board's obligation to pursue basic fairness and respect for all students, which clearly is in the best interest of the University system.

Thank you for your consideration of my remarks.